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SIPDIS

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ISLAMABAD FOR A/S BOUCHER
STATE FOR SCA/FO (DAS GASTRIGHT), SCA/A, S/CRS, INL/FO
STATE PASS TO USAID FOR AID/ANE, AID/CDHA/DG
NSC FOR HADLEY, O'SULLIVAN, HARRIMAN
OSD FOR KIMMITT
CENTCOM FOR CG CFC-A, CG CJTF-76, POLAD

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TAGS: [PREL](#) [PGOV](#) [KJUS](#) [AF](#)

SUBJECT: READOUT OF HADLEY MEETING WITH CHIEF JUSTICE

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REFTEL: A. KABUL 5299

[1](#)B. KABUL 5387

[1](#)C. KABUL 5388

SUMMARY

[1](#)1. (SBU) National Security Advisor Steven Hadley met with Chief Justice Azimi to learn more about the present challenges to rule of law in Afghanistan and provide encouragement for the future. Unqualified judges in office and a lack of trained recruits create a long-term challenge to the justice sector. Corruption and counter-narcotics related corruption also undermine its effectiveness. The NSA and Ambassador both supported the Chief Justice's efforts to reform the judiciary and promised to help Azimi, whose chief requests were to improve the dignity of the position by helping provide better salaries, housing and transportation. END SUMMARY.

LACK OF QUALIFIED PERSONNEL

[1](#)2. (SBU) On November 2, National Security Advisor Steven Hadley and Ambassador Neumann met with Chief Justice Azimi to discuss the crucial need to develop rule of law and the justice sector. One of the key problems facing the judiciary is the lack of academically qualified judges. Only about half of the approximate 1,500 judges are academically qualified. For some time, and especially during the civil war years, judges were appointed without regard to their academic qualifications, but rather on the basis of political favoritism and other non-academic factors. Many of those judges remain on the bench.

[1](#)3. (SBU) Azimi also said a similar lack of academic

qualifications afflicts the prosecution service. While he believes that all prosecutors should be lawyers, this is not the case today. The number of genuine lawyers in the country numbers "in the hundreds," although others perform some attorney-like functions like preparing petitions for redress. The relative few genuine lawyers are often retired judges or prosecutors and are usually very well qualified.

¶4. (SBU) The Chief Justice is faced with a serious problem of improving the quality of the judiciary in a short amount of time. There needs to be a commitment to appoint judges and prosecutors based only on merit and to upgrade the dignity of their profession with the help of outside assistance.

PRESENT COURT SYSTEM

¶5. (SBU) The Supreme Court has overall responsibility for the national court system. At present, the Chief Justice feels the court is disconnected from the provinces, and the rural people feel similarly disconnected from the central courts in Kabul. There is currently no case reporting or case tracking system. The Chief Justice has asked the chief judges in each province to submit monthly reports to him indicating the numbers and types of their cases. Recently, the court apportioned the country into eight regions, with one of the Supreme Court justices responsible for liaison with each region. The hope is that this will bring familiarity with the formal court system to the provinces and also make local judges more accountable to Kabul. He believes there are many people "caught in the middle" of opposing forces today and willing to accept the national government if they see positive changes in their lives.

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POPPIES AND CORRUPTION

¶6. (SBU) Mr. Hadley noted that Afghanistan's future is threatened by "poppies and corruption" and asked the Chief Justice to describe possible approaches to the corruption problem. The Chief Justice noted that he chairs an 11 person commission that was given three months (with two months remaining) to report to the President. The report will address the extent of corruption within all three branches of the government and how to combat it. While good ethics laws or trained anti-corruption investigators and prosecutors remain lacking, the Chief Justice said the GOA was trying to address those gaps. He cited the need for the MOI, MOJ, AGO, and Supreme Court to communicate more closely.

¶7. (SBU) The Chief Justice gave anecdotal examples of some bureaucratic problems that encourage corruption. For example, he said a person must get the approval of over twenty offices to get a drivers' license, each of which might ask for a bribe. As another example, he noted that too few Afghan passports are printed, which leads to bribery in order to obtain one. In cases of alleged criminality, even if "caught in the act," the Chief Justice can only ask the President to suspend a judge pending the outcome of a criminal case. In case of a not guilty verdict, the judge is returned to service. The Chief Justice believes that the local media actively covers cases of official corruption that are exposed, although the Ambassador noted that the media does not aggressively pursue counter-narcotics coverage.

¶8. (SBU) When asked by Mr. Hadley about the influence

of Sharia law in the judicial system, the Chief Justice said that, unlike under the Taliban, there is now "no problem at all." He noted that both the Criminal Code and Civil Code were originally drafted by Egyptian scholars in the 1960's. The Criminal Code has now been reinstated, while the Civil Code is still being modified. (NOTE: There are many reports that the influence of Sharia is still a problem in rural areas where "official" laws are ignored for the informal system based in Sharia and tribal law. END NOTE.)

SUPPORT FOR RULE OF LAW

¶9. (SBU) Mr. Hadley noted that the work the Chief Justice was engaged in was both difficult and dangerous, but that the USG was pleased to see that such a person as he was now leading the effort and we would continue to support him. The Ambassador noted the meeting of international donors convened earlier this week by UNAMA and the Italians (see REFTEL A) and expressed the USG's desire to increase coordination among all donors to address the needs of the GOA in the Rule of Law arena.

¶10. (SBU) The Chief Justice noted that the donor assistance he needs is not standard textbook training. He believes the Supreme Court can handle that problem itself. He said he needs help improving the conditions and dignity of the position. Currently, judges earn \$50-\$300 per month. He would like to see those salaries raised to \$400-\$800 per month, with some senior judges earning up to \$1,000 per month. He also cited a critical need for more and better transportation, housing and offices for judges. (NOTE: these needs are also cited in the five year strategic plan recently issued by the Supreme Court. END NOTE.)

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¶11. (SBU) The Ambassador responded that while he was initially resistant to such assistance and that such construction was cut last year, he believes the issue now needs to be re-examined. Both the Ambassador and Mr. Hadley noted that in budget negotiations with Congress for such funding, it would be very helpful to show that the GOA was committed to attacking the corruption problem.

NEUMANN